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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,418	03/12/2004	Yasushi Kohno	121056-0017	7131

35684 7590 04/14/2005

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EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,418

Applicant(s)

KOHNO ET AL.

Examiner

Son T. Nguyen

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 4/12/05.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 4,3** are rejected under 35 U.S.C. 102(b) as being anticipated by Pogue (US 4,261,139 on form PTO-892 mailed on 5/23/01).

For claim 4, Pogue discloses a process for collecting seeds from a lump consisting of a plurality of seeds having fluffy fibers (Pogue refers the fluffy fibers as “awn” or “beard”), comprising the steps of collecting the lump from a natural environment (col. 3, line 30 where Pogue discusses seed clusters); disentangling the lump after collecting the lump (col. 3, lines 29-30, where Pogue uses an elevator system to break apart the seed clusters); and burning the fluffy fibers after the disentanglement of the lump (col. 3, lines 36-68, Pogue discusses using a burner assembly to burn the awn or beard of the seed).

For claim 3, Pogue further discloses that the disentanglement of the lump is carried out to such an extent that the step of burning the fibers is finished in a short period of time (col. 3, lines 29-68, the elevator system break apart the seeds clusters into individual seed to an extent that each seed is to receive full effect of the flame treatment by the burner).

Art Unit: 3643

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over Pogue (as above).

Pogue discloses awn or beard seeds but he does not specifically state that these seeds are from plants such as cattail, cogon, redtop, and reed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to perform the method of collecting seeds as taught by Pogue with the seeds from the above plants depending on the user's preference as long as the seeds have awn, beard or fluffy fibers to be burned or flamed as taught by Pogue.

Response to Arguments

5. Applicants' arguments filed 3/12/04 have been fully considered but they are not persuasive.

Applicant argued that Applicants' method, as more clearly recited in independent claim 4, requires that the lump of seeds be collected from a natural environment. This excludes Pogue who, according to the Board, forms seed lumps after the seeds are placed in the hopper.

Art Unit: 3643

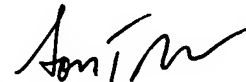
Seeds with hair or awn when harvested to be put in a container of some sort will inherently tend to clump up before heading for the flame machine. Pogue's seeds inherently have to be from the natural environment and then harvested so that they can be flamed to remove the awn. Unless the seeds are individually separated, which is not the case in Pogue's teaching, the chance of these seeds clumping up right after harvest are very likely. Col. 3, lines 29-34 of Pogue states that the elevator serves to break up the seed clusters, which appears to the Examiner's interpretation that the seeds are in clusters or clumps before entering the machine in order for the elevator to serve to break the clumps or clusters apart. This inherently presents itself to the fact that seeds are already in clumps after harvesting the seeds from the "natural" environment and then the elevator of Pogue's machine serves to break them apart (see drawings). Nowhere in Pogue's disclosure suggests that the clumps or clusters are created after the seeds are placed in the hopper as alleged by Applicant.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Son T. Nguyen
Primary Examiner
Art Unit 3643

stn